

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

SEP 23 2005

JOHN F. CORLE, CLERK
BY: *[Signature]*
DEPUTY CLERK

WILLIAM E. BURKE,

Plaintiff,

v.

THE ROCHESTER CORPORATION,

Defendant.

CIVIL ACTION NO. 3:04CV00037

ORDER

JUDGE NORMAN K. MOON

By order dated August 25, 2004, this case was referred to the Honorable B. Waugh Crigler, United States Magistrate Judge, for proposed findings of fact and a recommended disposition. The Magistrate Judge filed his Report and Recommendation on May 5, 2005. In his Report, the Magistrate recommends that the Court deny the Defendant's February 28, 2005 Motion for Summary Judgment. The Defendant filed timely objections to portions of the Magistrate's Report on May 19, 2005.

The Court has performed a *de novo* review of those portions of the Report and Recommendation to which objections were made. *See* U.S.C. § 636(b)(1)(C) (West 1993 and Supp. 2000); FED.R.CIV.P. 72(b). Having thoroughly considered the entire case, all relevant law, and for the reasons stated in an accompanying memorandum opinion, it is hereby

ADJUDGED ORDERED AND DECREED

as follows:

1. The Magistrate Judge's Report and Recommendation of May 5, 2005 shall be, and it hereby is, REJECTED;
2. The Defendant's Objections shall be, and they hereby are, SUSTAINED;
3. The Defendant's Motion for Summary Judgment shall be, and it hereby is, GRANTED;
4. The above-captioned civil case shall be STRICKEN from the docket of the Court.

The Clerk of the Court is hereby directed to send a certified copy of this Order to all counsel of record.

ENTERED: *James P. Moran*
United States District Judge
Sept 23, 2005
Date